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Letter dated 8 August 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 21 May 2003 (S/2003/585).

The Counter-Terrorism Committee has received the attached third report from Ireland submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 7 August 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Ireland to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I refer to your letter dated 9 May 2003 and have the honour to forward to you the third report of the Government of Ireland to the Counter-Terrorism Committee established pursuant to paragraph 6 of resolution 1373 (2001) (see enclosure).

(*Signed*) Colin **Wrafter**
Counsellor
Chargé d'affaires a.i.

Enclosure

Third report to the Counter-Terrorism Committee established pursuant to paragraph 6 of resolution 1373 (2001)

This third report addresses the specific comments/questions on 'Implementation Measures' in the letter of 9 May 2003 from the Chairman of the Counter-Terrorism Committee.

Paragraph 1.2

It was decided in the latter stages of drafting to amalgamate the Criminal Justice (Financing of Terrorism) Bill with two other related anti-terrorist Bills into a single Bill, the Criminal Justice (Terrorist Offences) Bill, 2002. This single Bill will give effect to the International Convention against the Taking of Hostages, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism. It will also allow Ireland to meet its commitments arising from United Nations Security Council Resolution 1373 as well as to implement The EU Council Framework Decision on Combating Terrorism. This Bill has completed the first two stages of its examination by the Dáil (lower House of the Irish Parliament). It is currently awaiting a detailed examination by a select committee. It will then be considered by the Senate (upper House) with a view to its enactment later this year.

Paragraph 1.3

Section 13 of the Criminal Justice (Terrorist Offences) Bill, 2002, provides for a new offence of financing terrorism based on the offence defined in Article 2.1 of the *International Convention for the Suppression of the Financing of Terrorism*.

This section gives effect to the Convention definition by providing that a person is guilty of the offence of financing terrorism if he or she in or outside the State, directly or indirectly, unlawfully and willfully, provides, collects or receives funds intending that they be used or knowing that they will be used to carry out an act that is:-

(a) an offence under Irish law and within the scope of any one of the treaties listed in the annex to the Convention; or

(b) (i) intended to cause serious bodily injury to a civilian or other person not taking part in an armed conflict; and

(ii) the purpose of which is to intimidate a population or to compel a government or an international organisation to do or abstain from doing any act (Section 13(1) of the Bill).

Section 13(2) extends the scope of the offence to include attempts to commit the offence. The criminalisation of "attempts" is required by Article 2.4 of the Convention.

Section 13(3) creates the further offence of financing terrorism by means of including funds provided, collected or received by any means, directly or indirectly, unlawfully and willfully by a person intending that they be used or knowing that they will be used in whole or in part:-

(a) for the benefit or purposes of a terrorist group, as defined in the EU Council Framework Decision on Combating Terrorism;

(b) in order to carry out a terrorist act, other than one referred to in (a) or (b) of section 13(1), that is an offence under section 6 of the Bill.

The purpose of this provision is to extend the scope of the offence in the Convention so that it also incorporates the financing of a terrorist group, as defined in the Framework Decision, and the definition of "terrorist offence" as defined in section 6 (taken from the Framework Decision) in so far as elements of that definition are not also part of the UN definition.

Section 13(4) extends the scope of the offence under section 13(3) above to include attempts to commit the offence.

Section 13(5) provides that that an offence is committed whether or not the funds are actually used to carry out a terrorist act. This is required by Article 2.3 of the Convention.

Section 13(6) provides for the circumstances in which offences under sections 13(1) and 13(2) of the Bill are also offences when committed outside the State. These circumstances are where the offence is:-

(a) committed on board an Irish ship;

(b) committed on an aircraft registered in or operated by the State;

(c) committed by a citizen of Ireland or by a stateless person habitually resident in the State;

(d) directed towards or results in the carrying out of an act referred to in section 13(1) above in the State or against a citizen of Ireland;

(e) directed towards or results in the carrying out of an act referred to in section 13(1) against a State or Government facility abroad, including an embassy or other diplomatic or consular premises of the State; or

(f) directed towards or results in the carrying out of an act referred to in section 13(1) in an attempt to compel the State to do or abstain from doing any act.

Section 13(7) provides that the terrorist offences created in section 13(1) or section 13(2) (the Convention offences) will also be offences when committed outside the State in circumstances other than those referred to in section 13(6). In these cases however, the Director of Public Prosecutions may not take, or consent to the taking of, proceedings referred to in section 45 (2) of the Bill except as authorised by section 45(3).

Section 45(2) provides that proceedings for an offence under section 13(1) or (2) can only be taken with the consent of the Director of Public Prosecutions.

Section 45(3) provides for the circumstances in which the Director of Public Prosecutions may take or consent to the taking of proceedings in relation to those offences under section 13(1) or (2). The circumstances concerned relate to where:

- a request for extradition under Part II of the Extradition Act 1965 has been made and has been refused;

- a warrant for the arrest of the person has been issued by a judicial authority in a place to which Part III of the Extradition Act 1965 applies and final determination has been made that the person should not be extradited;

- because of special circumstances (including the likelihood of the refusal of extradition) it is expedient that proceedings be taken against the person.

For the purposes of this legislation the word 'Funds' has been defined in section 12(1) as

(a) assets of every kind, whether tangible or intangible, movable or immovable, however acquired; and

(b) any legal document or instrument in any form, including electronic or digital, evidencing title to, or any interest in, any asset, including, but not limited to, a bank credit, traveller's cheque, bank cheque, money order, share, security, bond, draft and letter of credit.

This gives effect to the definition contained in Article 1 of the Convention.

Paragraph 1.4

As outlined in Ireland's second report to the CTC, EU measures which are directly applicable in Ireland, and therefore have the force of law, relating to the freezing and withholding of funds, other financial assets and economic resources of natural or legal persons, groups or entities specified, are:

- EC Regulation 881/2002 of 27 May, 2002 on specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, giving effect to UNSC Resolution 1390;

- EC Regulation 2580/2001 and Common Position 2001/931/CFSP on specific restrictive measures directed to combating terrorism, intended to give effect to the wider scope of the measures contemplated by UNSCR 1373;

- Related Council Decisions establishing and updating the list.

The Central Bank of Ireland continues to be the competent authority which supervises financial institutions regarding the implementation of EC Regulations in relation to the freezing of funds.

As outlined in Ireland's first and second reports to the CTC, provisions in the general Criminal Law, the Offences Against the State Act, 1939, the Offences Against the State (Amendment) Act, 1985, the Criminal Justice Act, 1994, and the Proceeds of Crime Act, 1996 allow for the freezing of assets in specified circumstances. These could have application to assets held by 'terrorists' within the particular limitations established by the legislation in question.

The Criminal Justice (Terrorist Offences) Bill 2002, also gives effect to a number of requirements arising from the adoption of the *International Convention for the Suppression of the Financing of Terrorism*, UNSCR 1373 and related developments at European Union level. This legislation makes provision for further changes to the existing law judged necessary and desirable arising from the specific terms of the Convention and the Resolution.

Section 14 of the Bill allows for the freezing of funds as an interim measure. It provides that where the High Court is satisfied, on foot of an *ex parte* application to it by a member of the Garda Síochána (Irish Police) of at least Chief Superintendent rank, that a person possesses or controls funds that are being used or may be intended for use in committing, or facilitating the commission of, a terrorist offence or a terrorist financing offence, it may prohibit a person from disposing of the funds for a period not exceeding 40 days, as may be specified by the Court, or diminishing their value over that period.

Section 15 allows for the freezing of funds (interlocutory order) for up to 7 years. It provides that, where it appears to the Court, on the evidence of a member of the Garda Síochána of at least Chief Superintendent rank, that a person is in possession or control of funds that were being used or may be intended for use in committing or facilitating the commission of a terrorist offence or a terrorist financing offence, then the Court will make an interlocutory order unless it is satisfied on the evidence of the respondent or an other person that the funds were not being used or intended for use in committing or facilitating the commission of those offences.

Section 16 provides that after 7 years the High Court may make an order directing that all or part of the funds be transferred to the Minister for Finance or another person determined by the Court. The effect of such an order is to deprive the respondent of any right to the funds.

Sections 21 to 43 of the Criminal Justice (Terrorist Offences) Bill 2002 make amendments to the Criminal Justice Act, 1994 (which deals with money laundering, drug trafficking and other serious offences) in order to extend provisions within this existing legislation to the offence of financing terrorism. These provisions include the following:

- the insertion into Part II of the 1994 Criminal Justice Act of five new sections (8A to 8E) after the original section 8. These new sections give effect in Irish law to the relevant provisions of Article 8 of the *International Convention for the Suppression of the Financing of Terrorism*;

- technical amendments to section 9 of the 1994 Criminal Justice Act incorporating into it the offence of financing terrorism separately and specifically;

- the tendering to a Court by the Director of Public Prosecutions and the defendant, of statements about matters relating to the making of confiscation orders which show that the defendant holds funds subject to confiscation.

  'Funds subject to confiscation' is defined as:

  (a) funds used or allocated for use in connection with an offence of financing terrorism, or

  (b) funds that are the proceeds of such an offence

- allowing a Court to order a defendant to provide whatever information it requires in connection with a confiscation hearing;

- the making of restraint (freezing) orders to ensure that funds will be available to satisfy any confiscation that might be imposed;

- imposing obligations on banks and financial bodies to take certain measures to prevent and assist in the detection of an offence of financing terrorism;

- empowering a member of the Garda Síochána or an officer of Customs and Excise to seize and detain cash being imported or exported if there are grounds for suspecting that it represents a person's proceeds from, or is intended for use in an offence of financing terrorism;

- allowing a judge of the Circuit Court to order the forfeiture of any cash seized by a member of the Garda Síochána or an officer of Customs and Excise;

- providing a procedure for the enforcement of orders made by the Courts of designated countries for the confiscation of property and funds (relating to the offence of financing terrorism) liable for confiscation in the other country;

- providing a procedure for the enforcement of orders made by the Courts of designated countries for the forfeiture of property or funds relating to the offence of financing terrorism;

- obliging persons or bodies to report any suspicion of an offence of financing terrorism or any lack in co-operation in the prevention of and assistance in the detection of an offence of financing terrorism to the Garda Síochána;

- providing that it is an offence for a person who knows that an order in relation to an investigation into whether or not a person holds funds subject to confiscation makes a disclosure likely to prejudice the investigation;

- empowering a Court, where a person has been convicted of a terrorist offence to order the forfeiture of property used or intended for use in the commission of a crime or is unlawfully in a person's possession;

- allowing the Garda Síochána to apply to the District Court for an order for the discovery of any relevant material relating to an investigation of an offence in respect of which a confiscation order might be made;

- empowering the High Court to order compensation to be paid to a person where proceedings which relate to orders of restraint or realisation do not result in a conviction or the conviction is quashed.

Paragraph 1.5

On 10 June 2003, the Minister for Justice, Equality and Law Reform signed Statutory Instrument No. 242 of 2003, the Criminal Justice Act 1994 (Section 32) Regulations 2003. The Regulations have a commencement date of 15 September 2003.

The Second EU Money-Laundering Directive (Directive No. 2001/97/EC of 4 December 2001) extends the obligations concerning customer identification, record keeping and the reporting of suspicious transactions to a number of new activities and professions. Therefore, to comply with the 2001 Directive, the list of designated bodies required to report money laundering transactions has been expanded by regulation to now include:

- accountants;
- auctioneers;
- auditors;
- estate agents;
- tax advisors;
- solicitors;
- investment business firms;

- trustees or custodians of a collective investment scheme regulated in the State;
- dealers in high-value goods, e.g. precious stones, precious metals and works of art, where payment is made in cash for a sum of Euro15,000 or more; and
- casinos.

In addition, when drawing up its implementing regulations, the Irish Government decided to include two additional categories:

- Administration companies providing services to collective investment schemes; and
- Providers of money remittance services.

Some limitations on reporting of suspicious transactions have been included, in line with the 2001 Directive.

Paragraph 1.6

The 'Agreed Programme for Government', published in June 2002, states that a comprehensive reform of the law relating to charities will be enacted to ensure accountability and to protect against abuse of charitable status and fraud. Responsibility for this reform was given to the Department of Community, Rural and Gaeltacht Affairs, upon its establishment in June 2002.

It is intended to publish a Consultation Paper on establishing a modern statutory framework for charities, intended as a reference document for a public consultation process, in early Autumn 2003. This will be followed in 2004 by the preparation of appropriate legislation. Without prejudice to the outcome of the consultation process, the overall policy aim of the new legislation would be to introduce an integrated system of registration, regulation and supervision.

Paragraph 1.7

Irish law contains a number of provisions which outlaw the financing, planning, facilitating or commission of terrorist acts in its territorial jurisdiction. These provisions will be strengthened and enhanced by the Criminal Justice (Terrorist Offences) Bill, 2002.

Terrorist Financing

The Offences Against the State Acts 1939-1998 contain provisions directed to the property and funds of organisations which have been declared unlawful organisations for the purposes of those Acts. Section 22 of the Offences Against the State Act, 1939 provides *inter alia* that on the making of a suppression order in respect of an unlawful organisation all property of such organisation is forfeited to and vested in the Minister for Justice, Equality and Law Reform. The Offences Against the State (Amendment) Act, 1985 provides a procedure whereby the Minister for Justice, Equality and Law Reform may authorise the restraint of funds held by any person which are believed to be for the use or

benefit of an unlawful organisation. The 2002 Bill will amend the 1985 Act such that this provision will come into force indefinitely and remain in force.

Likewise, as indicated in our initial report, other provisions of the criminal law relating to the proceeds of crime more generally could also have application to terrorist financing and would permit the confiscation of terrorist finances where these can be shown to be the proceeds of crime either directly or indirectly. See reply to para 1.4 above.

Part 4 of the Criminal Justice (Terrorist Offences) Bill, 2002, which gives effect to the *International Convention for the Suppression of the Financing of Terrorism*, provides for a new offence of financing terrorism. It also amends the 1994 and 1996 Acts to make provision for new dedicated procedures to enable funds which are being applied for the purpose of the funding of terrorist offences to be frozen and confiscated. See reply to para 1.3 above

Planning or facilitating terrorist acts
Various provisions of Irish law criminalise the offences of planning or facilitating criminal acts.

Section 7(1) of the Criminal Law Act 1997 already makes it an offence to aid, abet, counsel or procure the commission of an indictable offence. Incitement is an offence at common law.

Section 3 of the Criminal Law Act 1976 makes it an offence for any person to recruit another person for an unlawful organisation or to incite or invite any person to join an unlawful organisation or to take part, support or assist its activities.

Section 51 of the Criminal Justice (Terrorist Offences) Bill, 2002 also provides for a new offence of knowingly rendering assistance to an unlawful organisation in the performance or furtherance of an unlawful object.

The commission of terrorist acts
Irish law has not to date defined terrorism but tackled the phenomenon through the application of the general criminal law. This means that 'terrorist acts' are prosecuted by reference to ordinary offences, e.g., murder, offences against the person, and/or firearms or explosives offences - as opposed to being prosecuted as 'terrorist' offences.

The criminal law more generally also has application to the activities of the members of unlawful organisations arising from offences which they may commit in support of the activities of such groups (e.g. firearms and explosives offences). Likewise those provisions of the law directed to the confiscation of the proceeds of crime – the Criminal Justice Act 1994 and the Proceeds of Crime Act 1996 – can also have application to the activities of unlawful organisations and their members insofar as those activities involve relevant criminal activity.

However, in giving effect to the EU Council Framework Decision on Combating Terrorism, Part 2 of the Criminal Justice (Terrorist Offences) Bill, 2002 will, for the first time, provide for terrorist offences as a separate and distinct category of offence in Irish law. The Bill also makes provision for enhanced penalties to attach to terrorist offences in certain circumstances.

"Terrorist activity" is defined in section 4 of the Bill by reference to offences under Irish law which are committed in or outside the State with the intent of seriously intimidating a population, unduly compelling a Government or international organisation to perform or abstain from performing any act, or seriously destabilising or destroying the fundamental political, economic or social structures of a state or an international organisation. The specified offences for the purpose of the definition of terrorist activity are set out in Part 1 of Schedule 2 and comprise those offences under Irish law which correspond to the specified categories of intentional acts set out in Article 1 of the EU Framework Decision. The required intent for the purpose of the definition follows closely the wording of the EU Framework Decision itself.

"Terrorist-linked activity" is similarly defined by reference to certain other specified offences under our law committed in or outside the State for the purpose of engaging in terrorist activity or in connection with the activities of terrorist groups by reference to the relevant offences under the Offences against the State Acts. The specified offences for this purpose are set out in Parts 2 and 3 of the second Schedule and comprise those offences which correspond to specified categories of intentional acts set out in Article 3 of the EU Framework Decision, that is, offences of aggravated burglary and robbery, blackmail, extortion and certain forgery offences.

"Terrorist group" is defined by reference to the Framework Decision, i.e. a structured group of more than two persons, established over a period of time and acting in concert to commit terrorist offences.

Section 6 makes provision for terrorist offences by reference to those definitions and in keeping with the requirements of the EU Framework Decision. Subsection (1) provides that a person who engages in terrorist activity or terrorist-linked activity in, or in certain circumstances outside, the State, is guilty of an offence. It also makes attempting to engage in terrorist activity or in terrorist-linked activity and threatening to engage in terrorist activity in or outside the State an offence. The effect of the definitions of terrorist activity and terrorist-linked activity will be to require proof of the commission of the relevant underlying offence together with proof of the specific intent for that to become a terrorist offence or terrorist-linked offence as the case may be.

The circumstances in which terrorist offences committed outside the State will be offences in our law are governed by subsections (2) and (3) of Section 6 and correspond to those circumstances in which Article 9 of the Framework Decision requires us to take extraterritorial jurisdiction. They are where the offence has been:

- committed on board an Irish ship;
- committed on an aircraft registered in the State;
- committed by a person who is a citizen or is resident in the State;

- committed for the benefit of a legal person established in the State;
- directed against the State or Irish citizens;
- directed against EU institutions or bodies based in the State.

Extraterritorial jurisdiction will also be exercisable in circumstances where a request for extradition has been made and is refused.

Subsections (5) and (6), recognising the special difficulties that can attach to proving offences of specific intent, also make provision for certain circumstances in which the existence of the intent required for the purposes of committing the offence of engaging in or attempting to engage in terrorist activity may be presumed to exist, subject, of course, to the right of the accused to rebut that presumption. Subsection (7) makes provision for co-operation in respect of prosecutions in relation to terrorist offences in circumstances where more than one EU Member State may have jurisdiction.

The penalties which will apply to persons convicted of terrorist offences are set out in Section 7. This provides, in keeping with Article 5 of the EU Framework Decision, for enhanced penalties in certain circumstances by reference to the penalties which may be imposed for the same offence when committed without the special intent required for terrorist offences. The penalty will be the same where it is a sentence of imprisonment fixed by law or imprisonment for life, but enhanced maximum penalties will be available in all other circumstances.

Extraterritorial jurisdiction
There are a number of provisions in Irish law which allow extraterritorial jurisdiction to be exercised. These include:

- Offences within the scope of the *Convention on Offences and Certain Other Acts Committed on Board Aircraft*, the *Convention for the Unlawful Seizure of Aircraft*, the *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation* and the *Convention on the Protection of Nuclear Materials*, under the relevant legislation;

- Offences within the scope of the *European Convention on the Suppression of Terrorism* when committed outside the State in certain circumstances by virtue of sections 5 and 6 of the Extradition (European Convention on the Suppression of Terrorism) Act, 1987;

- The offence of murder, manslaughter and offences under sections 2 and 3 of the Explosive Substances Act, 1883 when committed outside the State by an Irish citizen;

- Scheduled offences for the purposes of the Criminal Law (Jurisdiction) Act, 1976 when committed in Northern Ireland.

More generally, section 38 of the Extradition Act, 1965 provides that where a citizen of Ireland does an act outside the State which constitutes an offence for which (s)he would be liable to extradition but

for the fact that (s)he is a citizen of Ireland, (s)he shall be guilty of the like offence as if the act were done in the State.

The Criminal Justice (Terrorist Offences) Bill 2002 will bolster these provisions in that extraterritorial jurisdiction will be taken for terrorist offences in certain circumstances, including where committed by a citizen or resident or against the State or Irish citizens.

Paragraph 1.8

European Economic Area (EEA) and Swiss nationals and their dependants
The EEA comprises EU states and Iceland, Norway and Liechtenstein. EEA (and Swiss) nationals and their dependants enjoy extensive rights of free movement in this jurisdiction. However there is provision in European Law (Articles 39.3, 46.1 and 55 of the EC Treaty and Directive 64/221/EEC) which provides for the imposition of restrictions on the free movement rights of EU citizens on, inter alia, grounds of public policy and public security. These provisions are reflected at national level in the European Communities (Aliens) Regulations, 1977 and the European Communities (Rights of Residence for Non Economically Active Persons) Regulations, 1997.

Persons granted Humanitarian Leave to Remain
The Aliens Act, 1935 and the Aliens Order, 1946 (as amended) regulate the position of non- EEA nationals who wish to reside in Ireland. In general terms they give the Minister for Justice, Equality and Law Reform and the Garda Síochána wide-ranging powers in relation to non-EEA nationals. In accordance with Article 11 of the Aliens Order, 1946, subject to certain limited exceptions, every non-EEA national who is present in the State for more than three months is required to register with the Garda Síochána. The registration process is in effect a mechanism for monitoring such persons, the purpose of their presence in the State, their addresses in the State etc. Upon registration, the non-EEA national in question is required to carry a Garda Síochána Registration Certificate and to present same on demand to a member of the Garda Síochána. He or she is also required to furnish to the Garda Síochána particulars of any circumstances affecting in any manner the accuracy of particulars previously furnished, within seven days of the occurrence. The Minister is also empowered by virtue of the provisions of Article 18 of the Order to require the non-EEA national in question to comply with particular provisions in relation to change of abode, employment, occupation and other like matters. Failure to comply with any of the foregoing requirements constitutes a criminal offence.

Irish immigration law also provides for:

(a) the refusal of leave to land in the State to a non-national including cases where his/her "entry into or presence in the State would pose a threat to national security or would be contrary to public policy" (Article 5 of the Aliens Order, 1946);

(b) the exclusion (by means of an exclusion order made by the Minister for Justice, Equality and Law Reform) of any non-national from the State if the Minister for Justice, Equality and Law Reform considers it necessary in the interests of national security or public policy (Section 4 of the Immigration Act, 1999);

(c) the deportation (by means of a deportation order made by the Minister for Justice, Equality and Law Reform) of non-nationals from the State in a number of specified circumstances including circumstances "where the deportation would, in the opinion of the Minister, be conducive to the common good" (Section 3 of the Immigration Act, 1999).

The foregoing provisions are subject to an absolute prohibition on refoulment which is contained in section 5 of the Refugee Act, 1996. This means that a person (not just a refugee) shall not be expelled from the State or returned in any manner whatsoever to the frontiers of territories where, in the opinion of the Minister, the life or freedom of that person would be threatened on account of his or her race, religion, nationality, membership of a particular social group or political opinion. However, apart from the afore-mentioned section 5 there is no provision for secure long-term residence status (other than citizenship or refugee status) which precludes the invocation of paragraphs (a) to (c) above.

Asylum Seekers

The following information relates to persons who have applied for asylum but who have not had an asylum claim determined. Nothing contained hereunder should be construed as preventing the extradition of a person in accordance with Irish extradition legislation.

Applicants for asylum must be given leave to land in the State until their asylum claims have been dealt with in accordance with section 9 of the Refugee Act, 1996. Every applicant is issued with a temporary registration certificate in lieu of the requirement to register in accordance with Article 11 of the Aliens Order, 1946. An applicant is required to notify the Refugee Applications Commissioner of any change in address and an immigration officer may, by notice in writing require an applicant to reside or remain in particular districts or places in the State or to report at specified intervals to members of the Garda Síochána. Failure to comply with any of the foregoing constitutes a criminal offence.

In addition, an immigration officer or a member of the Garda Síochána may detain an applicant in a prescribed place where he or she, with reasonable cause, suspects that the applicant

(a) poses a threat to national security or public policy;

(b) has committed a serious non political crime outside the State;

(c) has not made reasonable efforts to establish his or her true identity;

(d) intends to leave the State and enter another State without lawful authority; or

(e) without reasonable cause has destroyed his or her identity or travel documents or is in possession of forged identity documents.

Paragraph 1.9

The approach taken in Irish law is to enact any necessary implementing legislation prior to becoming party to an international agreement, in order to ensure that the State's obligations under the agreement are provided for in Irish law from the date on which the agreement enters into force for Ireland. This stems from Ireland's dualist approach to international treaty law, pursuant to which international agreements entered into by Ireland do not automatically become part of its domestic law (see Article 29.6 of the Constitution of Ireland).

Ireland formally deposited its Instrument of Accession to the *Convention on the Marking of Plastic Explosives for the Purpose of Detection, 1991* with the ICAO Secretariat in Montreal on 15 July 2003. The Convention is expected to enter into force for Ireland on 13 September 2003.

Ratification of / accession to four of the remaining Conventions, (i) *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973*; (ii) *International Convention against the Taking of Hostages, 1979*; (iii) *International Convention for the Suppression of Terrorist Bombings, 1997*; and (iv) *International Convention for the Suppression of the Financing of Terrorism, 1999*, is expected to take place as soon as the Criminal Justice (Terrorist Offences) Bill, 2002, is enacted and necessary Government orders under the Extradition Acts are made. As indicated at paragraph 1.2 above, this Bill has completed the first two stages of its examination by the Dáil (lower House of the Irish Parliament) and is currently awaiting a detailed examination by a select committee. It will then be considered by the Senate (upper House) with a view to its enactment later this year.

The Government is currently finalising legislation which would, once enacted, permit Ireland to become party to the *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988* and the *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms on the Continental Shelf, 1988*. It is hoped to publish this legislation in Autumn 2003.